notice of the Central Bank and say, "If you are helping workers involved in other cases at the time of the Diwali festival or on some other festival occasions, can't you extend similar help to the workers on a festival occasion?" I will certainly pass on this to the Central Bank of India. But to say that a the Central Bank of India should not recover anything would not be correct. May be, at the time of the Diwali festival or, may be, at the time of a particular festival, the Central Bank of India can suspend its recovery for a month or so and see that some relief is granted to the workers. If that is the point which the hon. Member, Mr. Kumar is making, I will certainly pass on this to the Central Bank of India.

MR. CHAIRMAN: Q.No. 363.

Excise Disputes Pending for Adjudication

*363. DR. JAGANNATH MISHRA: Will the Minister of FINANCE be pleased to state:

(a) the number of Excise disputes pending for adjudication for more than 5 years;

(b) how much amount is locked in these disputes and the reasons for the inordinate delay in the settlement of these cases; and

(c) what steps Government propose to take for the expeditious disposal of outstanding Excise disputes?

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): (a) to (c) A Statement is laid on the Table of the House.

Statement

(a) to (c) The number of Excise disputes pending for adjudication for the last more than 5 years is 6813.

The amount locked up in these disputes is approximately Rs. 814.38 crores. Many of the issues involved in the cases are pending before CEGAT, High Courts or the Supreme Court.

Various measures are being taken to expedite finalisation of the cases at the stage of adjudication and appeal before the Tribunal and courts. These include sanctioning of more posts of Commissioners to deal, *inter-alia*, with adjudiction, reviewing of powers of Adjudication of Central Excise Officers at various levels, appointment of common adjudicators to exclusively deal with some of the cases which are complex and appointment of senior counsel to represent the Department.

डा० जगन्नाथ मिश्र: मंत्री जी के उत्तर से यह स्पष्ट हो रहा है कि 6,813 मामले 5 वर्ष से अधिक समय से विचाराधीन हैं तो मैं जानना चाहता हूं कि इन मामलों में बड़ी-बड़ी कम्पनियों से संबंधित कितने मामले हैं, सार्वजनिक प्रतिष्ठानों से संबंधित कितने मामले हैं और क्या यह सही है कि प्रक्रियाओं की जटिलता के कारण या नियमों-उपनियमों में भ्रांतियां रहने के कारण इन मामलों के निष्पादन में काफी लम्बा समय लगा है? उदाहरण के लिए मैं मंत्री महोदय का ध्यान आकर्षित करना चाहूंगा कि गोल्डन टोबेको कम्पनी, जिसके पास 15 करोड़ से अधिक बकाया है और 1985 में उसे सूचना दी गई शो कॉज देकर पूछा गया, इस मामले क अभी तक निष्पादन नहीं हुआ ठीक उसी तरह से इण्डियन टौबेको कम्पनी के मामले हैं जो 700 करोड़ से अधिक के समाचार पत्रों में प्रकाशित हुए हैं, जो लम्बित हैं। तो क्या मंत्री महोदय इन तथ्यों को ध्यान में रखते हुए कोई सकारात्मक कार्यक्रम तत्काल संचालित करेंगे?

SHRI P. CHIDAMBARAM: Sir, mounting arrears of cases has been a problem for many, many years. The data that we have do not generate the classification which the hon. Member wants. For example, the 6,800 cases which are pending with the various commissionerates, additional commissionerates and assistant commissionerates cannot be classified; in the space of time available, into public sector, big companies and small companies. But if there are specific instances which the hon. Member has in mind, certainly, I will be in a position to get the information and I will answer him. I know, for example, that in respect of the Indian Tobacco Company cases

which he has mentioned, a single adjudicating officer has been appointed who will hear all the cases. There are such methods by which such large cases are dealt with. But coming to the general question, I am not happy with these arrears. I am not happy even with the kind of adjudication that we have. As a practising lawyer I knew and I now know as a Minister, by this way arrears will only mount and arrears have been mounting. I do not forsee any decline in the arrears. We have too many levels of adjudication. We have too many steps in the adjudicatory process. And the system is so complicated that it only encourages litigation. Some steps are being taken like bunching of cases issue-wise, bunching of cases in the Supreme Court, bunching of cases in the High Court, etc. The only place where arrears have been tackled effectively is the Supreme Court because the Supreme Court Registry has a computerised Registry which bunches cases. The Supreme Court has been able to deal with these arrears very effectively. I know that the Supreme Court has advised the High Courts to adopt a similar system. But most High courts have not been able to do that. Most of these cases are pending because they are pending in the courts and there are stay orders. What happens is, if, in one case, the issue is taken up to the Supreme Court against an order of the CEGAT and the Supreme Court has admitted that case and has kept that issue for adjudication, hundreds of cases raising the same issue will also be kept pending until we get the Supreme Court's decision. So, there is no easy solution to the problem. But I have instructed that the delegated powers to the Assistant Commissioner, the Additional Commissioner and the Commissioner should be thoroughly reviewed. I have not taken up this on a high priority. As I said, my priority today is the company law and the income-tax law. Once we complete the review of the company law and the income-tax law, I hope to deal with excise and customs, I hope to find a way by which at least departmental adjudication is speeded up. I have no control over the courts or the speed of disposal in the courts. But I will find some way by revising the delegated powers to quicken departmental adjudication.

डा॰ जगन्नाथ मिश्र: सभापति महोदय, मंत्री महोदय के उत्तर से यह स्पष्ट हो रहा है कि प्रक्रियाओं में जो त्रुटियां हैं जो लम्बा समय लगता है उससे सम्पूर्ण प्रणाली में संशोधन किया जाना चाहिए। सुधार होना चाहिए। मैं जानना चाहूंगा कि जिस तरह से टैक्स प्रणाली में संशोधन किए जा रहे हैं उसी संदर्भ में क्या उत्पाद कर में, सीमा शुल्क में नए संशोधन प्रस्तावित हैं और क्या इस प्रश्न पर विचार करेंगे कि न्यायायिक प्रणाली में जो विलम्ब होता है उसमें क्या पदाधिकारियों की कोई सांठगांठ होती है। क्या उनकी मिली-भगत होती है? जो सम्बद्ध पक्ष होता है उसके प्रति उनकी उदासीनता होती है, कमज़ोरी होती है। जिस तत्परता से मामले का निष्पादन होना चाहिए, वह निचले स्तर पर नहीं होता है जिसकी वजह से बार-बार अपील करने की गुंजाइश बनती है। इसलिए मंत्री महोदय से हम यह जानना चाहेंगे कि क्या कर-प्रणाली में तत्काल संशोधन प्रस्तावित हैं? जो हमारे देश की कर-प्रणाली है वह प्रत्यक्ष करों पर आधारित है और विश्व के अनुभवों के आधार पर भारत का दबाव प्रत्यक्ष कर-प्रणाली पर अभी तक बना हुआ है जिसकी वजह से समाज के गरीब वर्ग के लोगों को खासकर निम्न वर्ग के उपभोक्ताओं को कष्ट होता है। तो क्या इन सभी बातों को ध्यान में रखते हुए अगले बजट में इस प्रणाली में सुधार करने का प्रस्ताव सरकार के विचाराधीन है?

SHRI P. CHIDAMBARAM: Sir, changes are being brought about but not as quickly as one would like. For example, we had almost eleven rates of excise duty. They have been brought down, and I think today, we have about five or six rates of excise duty. I have already indicated in my Budget speech that it is my intention to reduce it to four, and over a period of time, we must move towards a single rate which will be the VAT rate, the equivalent of a VAT rate. It is not easy to bring about these changes immediately because that will mean in some goods, excise duty will go up, in some goods excise duty will come

down. So, we have to move at a slow pace. That is precisely what we are doing. So, let me hope that in the next Budget, some more rationalisation in the excise duty rates will come about.

There are two kinds of litigation. One is on rate. Now that is less complicated. As we move towards fewer rates, it will be easy to apply the relevant rate to the clearance of goods. The other and the most difficult area of litigation is where people remove goods without paying excise duty. It is clandestine removal, under-statement of value and other violations of law. It is these cases which lead to complicated litigation. Here we must have a stricter enforcement machinery and we must have a quicker adjudicatory process. As I said, Sir, I will take this up in February—both excise law and customs law—first to minimise the number of rates to simplify the procedures and to provide for quicker adjudication. I shall certainly consult the hon. Members who may have some thoughts on the subject.

डा० जगन्नाथ मिश्र: अधिकारियों की मिली-भगत से मामलों में जो विलम्ब होता है, उसके लिए आप तत्काल क्या उपाय करेंगे?

SHRI P. CHIDAMBARAM: Sir, we can monitor, we can exhort the officers to complete adjudication. But adjudication is a lengthy procedure. Adjudication involves parties, lawyers, documents, evidence, and you know how things can be delayed by various people. I agree with the hon. Member that there may be even some element of negligence on the part of officers. I am not disowning any of that. I am not disputing any of that.

I can only try to speed up the process. But delays are inbuilt into the system that we have got. We must try to attack the system, that is at the root.

SHRI K.R. MALKANI: Who has created this system?

SHRI P. CHIDAMBARAM: Not I.

SHRI SATISH AGARWAL: Thank you, Mr. Chairman. Sir, 6,813 cases involving an amout of Rs. 814.38 crores, do not include the excise evasion by ITC. If it is so, why? This is my first question. Secondly, the excise evasion by ITC is something around Rs. 700 crores. So, it cannot be this. It does not include the evasion by ITC. You have not given those figures. The pendency of Rs. 814 crores for the last five years, does not include the excise evasion by ITC, which is round about Rs. 700 crores itself. I would like to know whether you will set up a special mechanism with the same chair in almost all the metropolitan cities to adjudicate cases where the excise evasion involved is more than 100 crores. or whether excise tax evasion is resorted to by large industrial houses which are well known to you. Just as a decision taken by a High court or the Supreme Court or the CEGAT is practically binding, will you set up some Central machinery to make decisions taken by the adjudicating officers also binding? Why don't you involve that mechanism?

SHRI P. CHIDAMBARAM: Sir, there is some good news. Why ITC is not included is, in ITC case adjudication has been completed. Therefore, it is not shown as pending for adjudication. ...(*interruptions*)... In ITC, adjudication has already been completed.

SHRI SATISH AGARWAL: How much excise evasion was found out?

SHRI P. CHIDAMBARAM: I can't give you the exact figure.

SHRI SATISH AGARWAL: You get that information. You must have that information also.

SHRI P. CHIDAMBARAM: Sir, the question was why ITC is not shown here. This is about pending adjudication.

The information that I have is, ITC is ....(*interruptions*)....

SHRI SATISH AGARWAL: You are technical. You are too technical, Mr. Chidambaram.

SHRI P. CHIDAMBARAM: What is this? Kindly see the question. ....(*interruption*)...

MR. CHAIRMAN: Let the Minister finish his reply.

SHRI P. CHIDAMBARAM: Kindly see the question.

SHRI SATISH AGARWAL: I agree with you, Mr. Chidambaram. I agree with you.

SHRI P. CHIDAMBARAM: Kindly see the question.

SHRI SATISH AGARWAL: I agree with you, Sir, ...(*interruptions*)....

Oh! I agree. You are being too technical.

SHRI P. CHIDAMBARAM: There is no pending adjudication.

SHRI SATISH AGARWAL: I agree with you, that you have gone on record; chat is only with regard to the pending of adjudication proceedings. I am asking you what the amount of excise evasion found out by ITC was.

SHRI P. CHIDAMBARAM: I will find out ....(*interruptions*).... Sir, this is not fair, I mean the way he is asking. This is not the question. The question is how many excise disputes are pending for adjudication for more than five years. And when you raised ITC, I referred it and the answer that I have got, which I am sharing with the House, is, as regards the ITC case, the adjudication has been completed; therefore, it is not shown in the list. If you want to know what the amount adjudicated in ITC case is, surely, I will find out and let you know. There is no reason for you to get angry with me for that! I will find out.

SHRI SATISH AGARWAL: I am not getting angry.

SHRI P. CHIDAMBARAM: That is the reason why ITC is not shown here. ITC has been adjudicated—this is the information which I have got. In ITC, Sir, the demand has been confirmed for Rs. 799 crores, and if they go on appeal, I am told that they would have to make a predeposit of a very large amount. The adjudication is about Rs. 799 crores. Please, don't hold me to the last decimal! This is the information which has just come now.

As far as setting up a mechanism in metropolitan cities is concerned, that is correct, that in metropolitan cities there is a Commissioner and in many of these cases, according to delegation orders today, where Section 11A is invoked and the limitation period is five years, on the ground of fraud, wilful suppression etc., etc., the Commissioner becomes the adjudicating authority. Therefore, adjudication is being done in all these large cases involving fraud, wilful suppression of material facts etc. by a high level officer of the rank of Commissioner. I think what the hon. member is driving at is, once the Supreme Court passes an order or the CEGAT passes an order, is there a way to apply that order to all the cases where the same issue is raised? Now, that is an attractive argument, but what you will find is the case will always involve some other point also. The lawyer can always invent another point for the other case, not only the point which has been decided by the CEGAT or by the Supreme Court. So, when you apply that case, they will say, "That point is covered, but there are other points which have to be adjudicated!" I don't think it is very easy. The way is to simplify the system by minimising the sources of litigation, the causes of litigation. As I said, I will apply my mind to this in February.

SHRI BRATIN SENGUPTA: Will the Minister kindly reply as to how much excise amount is due from the Shaw Wallace Company and for how many years they are in default?

SHRI P. CHIDAMBARAM: Sir, how is it possible for me to answer each individual case? I must have a separate notice for each individual case. They are

not carrying the entire information, company-wise.

PROF. RAM KAPSE: Sir, there are two issues. As far as small scale industries are concerned, the small scale industry associations are complaining that regarding the meaning of the Excise circulars there are many disputes which arise out of the meaning of the circular by a commisioner or an assistant commissioner. That is one point.

Another point was about the consumer interest. In 1990 it was decided that the excise duty, which was collected by the companies, if it is decided against them, should be passed on to the consumers and for that some arrangement was made.

SHRI P. CHIDAMBARAM: Please repeat the question.

PROF. RAM KAPSE: The companies should pass on the excise duty collected to the consumers, if it is decided against them. I would like to know about the arrangement. Mr. Kolse Patil was a Judge at Mumbai High Court. he had decided that the companies should pass on the excise duty collected to the consumers. I would lke to know whether any arrangement has been worked out.

SHRI SATISH AGARWAL: It is relating to unjust enrichment.

SHRI P. CHIDAMBARAM: Sir, on the first part, I am not clear what the hon. Member has in mind.

PROF. RAM KAPSE: There is a circular. The small-scale industries are complaining about it.

SHRI P. CHIDAMBARAM: As regards small-scale units, there is an exemption limit for the first clearances up to Rs. 30 lakhs. This is the exemption on excise duty. Then there is graduated exemption up to Rs. 50 lakhs and up to Rs. 75 lakhs. If a unit is clearing up to Rs. 30 lakhs, on the first clearances up to Rs. 30 lakhs there is no excise duty. So, the question of any erroneous interpretation affecting such small-scale units will not arise. What the hon. Member has in mind may be that when they cross the threshold of Rs. 30 lakhs, when they become subjected to paying a small amount of excise duty, it is quite possible that disputes will arise as to under which tariff heading a particular product falls. That has nothing to do with the small-scale units. It will apply even to the large-scale units. These interpretational problems can be resolved only if you have the same rate of duty for all items which fall under the same tariff chapter heading. If excise duties are widely dispersed and if you have several rates of duty for products which fall under the same tariff chapter heading, disputes will arise whether the product falls under one particular heading or another particular heading. That is why I said that our effort was to reduce the number of rates. I think we had 11 and the previous Government had reduced them to six or seven. I think now it is brought to five or six and my goal is to bring it to four and then preferably to one or two. Once we move in that direction these problems will cease.

In the second part what you are asking is about unjust enrichment. Now as regards unjust enrichment, you are aware that the Parliament has made a section under which the State is not obliged to refund any excise duty, which may be refundable otherwise, on the ground of unjust enrichment because it has already been passed on to the consumers. That is now put in a fund. But that statement of law which has been reflected in the Parliamentary law has once again been challenged in the Supreme Court and the Supreme Court has heard the matter and the judgement is awaited. But in the absence of that judgement we are following the present law wherever there is a claim for refund. Unless the party can show that there is no unjst enrichment, we do not refund the excise duty to the party.

श्री राघवजी: सभापति महोदय, माननीय मंत्री जी ने बताया है कि 6,813 प्रकरण लम्बित हैं। वैसे यह संख्या

बड़ी नहीं है लेकिन पांच वर्ष से मामले लम्बित हैं इसलिए बहुत बड़ी संख्या है। जो कारण गिनाए हैं उसके अलावा भी पता नहीं माननीय मंत्री जी को यह जानकारी है कि नहीं कि कस्टम और एक्साइज़ विभाग काफी बड़ा विभाग है और इसमें लालफीताशाही भी काफी बढ़ी है। यहां तक कि सांसदों के पत्र भी 2-2 साल तक नहीं निपटाए जाते हैं। मेरा स्वयं का एक पत्र है जो दो वर्ष पहले दिया हुआ पत्र है और छोटे से मामले से संबंधित पत्र है लेकिन वित्त मंत्री बदल गये, दूसरे वित्त मंत्री भी आ गये और दो वर्ष पहले के पत्र का उत्तर नहीं आया है। तो यह भी कारण है जिससे काफी बड़ी संख्या में मामले लम्बित होते हैं। माननीय मंत्री जी ने कहा कि कमिश्नर नियुक्त किये जा रहे हैं। मेरी जानकारी के अनुसार अभी तक कोई नया कमिश्नर नियुक्त नहीं किया गया है। मैं माननीय मंत्री जी से जानना चाहता हूं कि लालफीताशाही को दूर करने के लिए क्या कदम उठाए जा रहे हैं एवं जो ऐपीलेट ट्रिब्यूनल हैं, जिनमें अधिकांश लम्बित प्रकरणों को देखा जाएगा, उन ऐपीलेट ट्रिब्यूनल की संख्या क्या और बढ़ाने जा रहे हैं तथा उनमें जो रिक्त स्थान हैं, उनकी पूर्ति करने जा रहे हैं कि नहीं?

SHRI P. CHIDAMBARAM: Sir, vacancies and filling up of posts do not really arise out of this question. We are attending to that. These are housekeeping jobs which are being attended to on a regular basis. Whatever vacancies are there, we will fill up. As regards people not replying to letters, I shall certainly instruct them once again that letters from Members of Parliament or any other person to the authorities must be replied to promptly. I think they are doing their best. I admit that there can be some remissness on the part of some officers. I shall instruct them once again that they should reply to letters.

श्री राघव जी: क्या आप अपनी ट्रिब्यूनल की संख्या बढ़ाने जा रहे हैं?

I would like to know whether you are going to raise the number of tribunals.

SHRI P. CHIDAMBARAM: Sir, there is no such proposal under consideration.

Delay in sending dividend and bonus repurchase cheques by UTI

*364. SHRI PARAG CHALIHA: Will the Minister of FINANCE be pleased to state:

(a) whether UTI is trying to cheat investors in various ways such as delay in sending dividend and bonus repurchase cheques under US-64 Scheme; if so, the action taken by Government to streamline its working;

(b) the number of dividend cheques, dated 1st July, 1996 under US-64 Scheme which were required to be sent in July, 1996, were sent in July, August and September, separately;

(c) the number of bonus cheques, dated 1st October, 1996 required to be sent in Ocotber were sent in November and even thereafter, month-wise; and

(d) whether investors will be paid interest on late desptatch of cheques; if not, the reasons therefor?

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): (a) to (d) A statement is laid on the Table of the House.

Statement

(a) to (c) Unit Trust of India (UTI) has informed that despatch of dividend warrants under US-64 was completed in the month of July, 1996 except in respect of cases which had some objections. The despatch of bonus repurchase cheques commenced in the first week of October, 1996 and UTI had planned to complete the entire despatch within the month of October, 1996 itself. However, due to the postal stike which started on 23rd October, 1996 the despatch of bonus Repurchase cheques could be completed only by November 15, 1996.

(d) UTI with the intention of completing the despatch of cheques within October, 1996 had deposited the amounts with banks on which it did not earn any interest. UTI has therefore expressed its inability to pay any interest on the late despatch of cheques.